

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:10-cv-222-RJC**

KASEAN DAMONT BRYSON,

Petitioner,

v.

SIDNEY HARKLEROAD,

Respondent.

ORDER

THIS MATTER is before the Court on Petitioner's Motion for a Certificate of Appealability, (Doc. No. 44), as to this Court's denial of Petitioner's motion under Rule 59(e) of the Federal Rules of Civil Procedure, (Doc. No. 41). Petitioner had filed the Rule 59(e) motion to alter or amend the Court's prior grant of summary judgment to Respondent on Petitioner's habeas petition filed pursuant to 28 U.S.C. § 2254. The Court previously denied Petitioner a Certificate of Appealability ("COA") with respect to the Court's grant of summary judgment to Respondent as to the § 2254 petition. (Doc. No. 35).

The Court finds that a COA should also not issue with respect to the Court's denial of Petitioner's Rule 59 motion. Pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, Petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 338 (2003). When relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition

states a debatable claim of the denial of a constitutional right. Slack v. McDaniel, 529 U.S. 473, 484 (2000). Petitioner has failed to make these showings.

IT IS, THEREFORE, ORDERED that Petitioner's Motion for a Certificate of Appealability, (Doc. No. 44), is **DENIED**.

Signed: July 3, 2012

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

